

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

AARON BLACKWELL and)	
DURELL CUNNINGHAM,)	
)	
Plaintiffs,)	
)	
vs.)	CAUSE NO. 1:19-cv-04869-SEB-DLP
)	
DARYL JONES, ON-TARGET)	
SECURITY, INC. and NORDSTROM,)	
INC.,)	
)	
Defendants.)	

DEFENDANT ON-TARGET SECURITY, INC.'S STATEMENT OF DEFENSES

Defendant On-Target Security, Inc., by counsel, hereby submit its statement of defenses as follows:

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs were contributorily and/or comparatively at fault for their alleged injuries.
3. Defendant can only be liable under a theory of *respondeat superior* for actions of its own employees conducted within the scope of their employment.
4. Deputy Jones was not an On-Target Security, Inc. employee at the time frame in this action. Deputy Jones was an independent contractor for On-Target, and a principal is not liable for the acts of an independent contractor.
5. Plaintiffs' state law claims, if any, are barred to the extent he has failed to comply with the notice requirements of the Indiana Tort Claims Act, Indiana Code section 34-13-3-1 *et seq.*
6. Any and all damages or injuries complained of were proximately caused by the intervening and superseding acts of persons or entities other than On-Target.

7. Deputy Jones is entitled to qualified immunity on Plaintiffs' § 1983 claims as his conduct did not constitute a constitutional deprivation under clearly established law.

8. Any state law claims are barred by Indiana's common law crime prevention immunity.

9. Plaintiffs are not entitled to relief under § 1985(3) because Defendant did not intentionally discriminate against Plaintiffs based on their race.

10. Any adverse action taken with respect to Plaintiffs was taken for legitimate, non-discriminatory reasons unrelated to Plaintiffs' race.

11. Plaintiffs' claims are barred in whole or in part because Defendant acted in good faith in their dealings with Plaintiffs.

12. Plaintiffs may have failed to mitigate their damages.

13. The alleged injuries and/or damages of which Plaintiffs complain were the proximate result of a risk voluntarily incurred and/or assumed by Plaintiffs.

14. To the extent Plaintiffs sustained any damages or injuries, such damages or injuries were directly and proximately caused by the actions of persons or entities other than On-Target and over whom On-Target had no control.

15. Plaintiffs' claim of false arrest is barred by the presence of probable cause.

16. Plaintiffs' claim of false arrest is barred because there was a good faith belief in the existence of probable cause and the belief was reasonable.

17. Defendant is entitled to a set off or credit for any sums of money or value received by Plaintiffs from any other party or non-party who caused or contributed to injuries or losses Plaintiffs sustained as a result of the occurrence described in the Complaint.

18. Plaintiffs cannot recover punitive damages from On-Target because no act or omission of On-Target was malicious, willful, wanton, reckless, or grossly negligent.

19. Plaintiffs' claims and alleged damages are limited or barred by the United States Constitution, the Indiana Constitution, and federal and state statutes.

Respectfully submitted,

s/ Candace Bankovich

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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2020, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system:

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